

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CLINT S. MOSAY,

Plaintiff,

v.

EDWARD F. WALL, *et al.*,

Defendants.

ORDER

13-cv-841-wmc

Plaintiff Clint S. Mosay, a prisoner at the Green Bay Correctional Institution in New Lisbon, Wisconsin, has submitted a proposed complaint. He has paid the \$400 filing fee. Nevertheless, because he is a prisoner, he is subject to the 1996 Prison Litigation Reform Act. Under the act, plaintiff cannot proceed with this action unless the court grants him permission to proceed after screening his complaint pursuant to 28 U.S.C. § 1915A to determine whether the case must be dismissed either because the complaint is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief.

In addition, plaintiff has filed a “Motion for Appointment of Counsel.” It is well established that civil litigants have no constitutional or statutory right to the appointment of counsel. *See, e.g., Luttrell v. Nickel*, 129 F.3d 933, 936 (7th Cir. 1997); *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866-67 (7th Cir. 2013). The most a court can do is determine whether to recruit counsel *pro bono* to assist an eligible plaintiff who proceeds under the federal *in forma pauperis* statute. *See* 28 U.S.C. § 1915(e)(1) (“The court may request an attorney to represent any person unable to afford counsel.”); *Pruitt v. Mote*, 503 F.3d 647, 653-54 (7th Cir. 2007) (*en banc*) (noting that, at most, the federal IFP statute confers discretion “to recruit a

lawyer to represent an indigent civil litigant *pro bono publico*"). In other words, a reviewing court only has discretion to recruit a volunteer. *Ray*, 706 F.3d at 867. It is too early to make that determination in this case, as the court has not yet issued an order screening the case. Until the court screens plaintiff's complaint as required by the Prison Litigation Reform Act, 28 U.S.C. § 1915A, any motion requesting the assistance of volunteer counsel must be denied as premature.

ORDER

IT IS ORDERED that

1. Plaintiff Clint S. Mosay's complaint is taken under advisement for screening pursuant to 28 U.S.C. § 1915A. Plaintiff will be notified promptly when such a decision has been made. In the meantime, if plaintiff needs to communicate with the court about his case, he should be sure to write the case number shown above on his communication.

2. Plaintiff's motion for assistance in recruiting counsel, dkt.# 3, is DENIED without prejudice.

Entered this 20th day of December, 2013.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge